# STATE OF ARIZON

FEB 1 4 2008

DEPT OF INSURANCE

## STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:

**NATIONAL TRADE BUSINESS** ASSOCIATION aka NATIONAL TRADE BUSINESS ALLIANCE OF AMERICA aka NATIONAL TRANSPORTATION BENEFITS ALLIANCE ASSOCIATION aka QUALIFIED ADMINISTRATIVE SPECIALISTS OF AMERICA aka AMERICAN EMPLOYERS ASSOCIATION aka NTBAA aka AFFINITY **HEALTHPLANS OF AMERICA; THOMAS** J. SULLIVAN; JAMES DOYLE; NATIONAL ALLIANCE OF ASSOCIATIONS aka NAA,

Petitioners.

No. 07A-177-INS

## CONSENT ORDER

(Hearing February 15, 2008, 9:00 a.m. Administrative Law Judge Lewis Kowal)

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The Arizona Department of Insurance ("Department") has received evidence that Petitioners have unlawfully engaged in the business of insurance in the State of Arizona. Petitioners wish to resolve this matter without the commencement of formal proceedings, do not contest the following Findings of Fact and consent to entry of the following Conclusions of Law and Order.

# FINDINGS OF FACT

On February 14, 2007, Jewel Davis ("Davis") filed a complaint with the Arizona Department of Insurance regarding a health insurance policy purchased for two employees of Marick, Inc. dba Copy Works & Printing ("Copy Works & Printing"). The health insurance policy was solicited through a fax sent to Copy Works & Printing. Davis purchased the insurance through a Nevada producer, Mark Miller, who represented that the health insurance was a PPO.

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- Mark Miller is an employee of Family Healthcare Services, Inc. dba America's Best Benefits ("America's Best"), an independent contractor enrollment firm that provides enrollment services for the National Trade Business Alliance of America ("NTBAA"), an association that purports to provide its members with a healthcare savings program called Affinity Health Plans of America.
- For each employee, Davis received two cards for "Affinity Health Plans of America." One card was a "Medical Benefits" card but stated that it was for a Limited Benefit Insured Plan – 100. The address for claims submissions was HCH, TPA, P.O. Box 841237, Houston, Texas 77284. The other card stated "This Program is not Insurance". and only provides dental, vision, prescription and chiropractic services on a discounted basis.
- America's Best is not licensed to transact insurance in Arizona nor is it exempt from the licensing requirement. America's Best's addresses are: 2515 Camino Del Mar #11. Del Mar CA 92014 and 5234 Kendall Ridge Court, Las Vegas NV 89141.
- NTBAA was New Jersey non-profit corporation located at 141 Ganttown Road, Suite E. Turnersville, NJ 08012. NTBAA was not a bona fide association within the meaning of A.R.S. § 20-2301(5). NTBAA was not licensed to transact insurance in Arizona nor was it exempt from the licensing requirement. NTBAA issued health insurance contracts to Arizona residents in the form of insurance cards for Affinity Health Plans of America.
  - On May 31, 2007 NTBAA dissolved as a corporation.
- On October 2, 2007, the New Jersey Department of Treasury, Division of Revenue, received a filing to form a new non-profit corporation, National Alliance of

The National Trade Business Association is also known as the National Trade Business Alliance of America, National Transportation Benefits Alliance Association, Qualified Administrative Specialists of America, American Employers Association and NTBAA.

. 5.

.25  Associations ("NAA") NAA is the successor entity to NTBAA. NAA is a New Jersey non-profit corporation located at 141 Ganttown Road, Suite E, Turnersville, NJ 08012 and is not a bona fide association within the meaning of A.R.S. § 20-2301(5). NAA is not licensed to transact insurance in Arizona nor is it exempt from the licensing requirement.

- 8. Thomas J. Sullivan ("Sullivan") was the President of NTBAA and is President of NAA. Sullivan is not licensed to transact insurance in Arizona nor is he exempt from the licensing requirement.
- 9. James Doyle ("Doyle") was the Secretary and Treasurer of NTBAA. Doyle is not licensed to transact insurance in Arizona nor is he exempt from the licensing requirement.
- 10. Neither NTBAA dba Affinity Health Plans of America or NAA hold certificates of authority to transact insurance in the State of Arizona.
- 11. Neither NTBAA dba Affinity Health Plans of America or NAA are exempt from the certificate of authority requirement.
- 12. On September 11, 2006, Paylogix, on behalf of Affinity Health Plans of America, made two withdrawals from the CopyWorks & Printing business account, \*\*\*\* \*\*\*\* 0116, each for \$249.50.
- 13. On October 12, 2007, the Director ordered Petitioners<sup>2</sup> to immediately cease and desist from offering or soliciting insurance applications; taking or proposing to make any insurance contract; taking or receiving any application for insurance; taking or collecting any premium fees, commission or any other consideration for any insurance contract; issuing or delivering insurance contracts to residents of Arizona; or otherwise offering or issuing insurance contracts to Arizona residents.

<sup>&</sup>lt;sup>2</sup> Also ordered to cease and desist were HCH Administration, Inc., Family Healthcare Services, Inc. dba America's Best Benefits, Mark Miller, Ethan Erickson, Paylogix, LLC and Richard Pfadenhauer.

- 14. The Director further ordered Petitioner NTBAA to immediately cease and desist from unlawfully transacting insurance business in Arizona without a certificate of authority.
- 15. On November 14, 2007, Petitioners Doyle, Sullivan and the NTBAA timely appealed the Director's October 12, 2007, Order to Cease and Desist<sup>3</sup>.
- 16. As of January 31, 2008, NAA had terminated its contracts with all Arizona policy holders with the exception of the policy holder referenced on page 5 paragraph 3 of this order.

#### **CONCLUSIONS OF LAW**

- 1. "Transact", with respect to insurance, includes solicitation and inducement, preliminary negotiations, effectuation of a contract of insurance and transaction of matters subsequent to effectuation of the contract and arising out of it, within the meaning of A.R.S. § 20-106(A).
- 2. Petitioners conduct, as alleged above, constitutes selling, soliciting or negotiating insurance in Arizona for any class or classes of insurance without a license for that line of authority, within the meaning of A.R.S. § 20-282.
  - 3. Petitioners are not exempt from licensure under A.R.S. § 20-283(B).
- 4. Petitioners conduct, as alleged above, constitutes aiding or assisting any person in the unauthorized transaction of insurance business, within the meaning of A.R.S. § 20-295(A)(11).
  - 5. Petitioners NTBAA and NAA are not bona fide associations in Arizona within

<sup>&</sup>lt;sup>3</sup>HCH Administration, Inc., Family Healthcare Services, Inc. dba America's Best Benefits, Mark Miller, Ethan Erickson, Paylogix, LLC and Richard Pfadenhauer did not appeal the order to cease and desist.

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the meaning of A.R.S. § 20-2324 nor do NTBAA and NAA hold a certificate of exemption under A.R.S. § 20-401.05.

- 6. Petitioners NTBAA and NAA are not exempt from holding a certificate of authority under A.R.S. § 20-401.01(B).
- 7. Petitioners NTBAA and NAA's conduct, as alleged above, constitutes transacting insurance business in Arizona without a certificate of authority, within the meaning of A.R.S. § 20-401.01(A) and is classified as a class 5 felony pursuant to A.R.S. § 20-401.06.

# **ORDER**

# IT IS THEREFORE ORDERED:

- 1. Petitioners shall immediately cease and desist from offering or soliciting insurance applications, taking or proposing to make any insurance contract, taking or receiving any application for insurance, taking or collecting any premium, fees, commission, or any other consideration for any insurance contract, issuing or delivering insurance contracts to residents of this state, or otherwise offering or issuing insurance contracts to Arizona residents until they obtain the appropriate authority to do so from the Department.
- Petitioners shall immediately cease and desist from unlawfully transacting insurance business in this state without a certificate of authority until they obtain the appropriate authority to do so from the Department.
- 3. Petitioners shall immediately terminate their contract with Edith Toney of Phoenix, Arizona who is a current enrollee.
- 4. Petitioners shall pay all valid claims arising out of acts covered by any and all insurance contracts issued by them to Arizona residents for so long as such claims may legally be brought against the contract holders.

- Petitioners shall immediately cease and desist from aiding or assisting any person in the unauthorized transaction of insurance business.
- Petitioners' successors in interest, assigns, agents and any other such related entities are subject to this Order.
- 7. This Order shall become effective immediately and shall remain in full force and effect until otherwise stayed, modified, vacated or set aside.
- 8. A violation of this order may result in criminal prosecution as a class 5 felony pursuant to A.R.S. § 20-401.06.
- 9. The hearing, Docket # 07A-177-INS, scheduled for February 15, 2008 at 9:00 a.m. in front of ALJ Kowal is vacated.

DATED this // day of February, 2008.

CHRISTINA URIAS, Deputy Director Arizona Department of Insurance

# CONSENT TO ORDER

- Petitioners have reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
- Petitioners admit the jurisdiction of the Director of Insurance, State of Arizona, do not contest the foregoing Findings of Fact and consent to the entry of the foregoing Conclusions of Law and Order.
- 3. Petitioners are aware of their right to notice and a hearing at which they may be represented by counsel, present evidence and examine witnesses. Petitioners irrevocably waive their right to such notice and hearing and to any court appeals relating to this Consent Order.

- 4. Petitioners state that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.
- 5. Petitioners acknowledge that the acceptance of this Consent Order by the Director is solely to settle this matter against them and does not preclude any other agency, officer, or subdivision of this state including the Department from instituting civil or criminal proceedings as may be appropriate now or in the future. Petitioners acknowledge that violation of this order may result in criminal prosecution by the Department.
- 6. Petitioners acknowledge that this Consent Order is an administrative action that the Department will report to the National Association of Insurance Commissioners (NAIC). Petitioners further acknowledge that they must report this administrative action to any and all states in which they hold an insurance license and must disclose this administrative action on any license application.

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1	7. Thomas Sullivan represents the	at he was President of National Trade	•
2	Business Alliance of America and as such is	authorized to enter into this Consent Order on	
3	its behalf.		
. 4	8. Thomas Sullivan represents the	at he is the President of NAA and as such is	
5	authorized to enter into this Consent Order o	on its behalf	
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9	2/14/08	The State of the	
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11		National Trade Business Alliance of America, Inc.	
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	Date	Thomas Sullivan, President	
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1	COPY of the foregoing mailed this 1474 of FERUMY, 2008, to:
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